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Report of the Secretary-General pursuant to paragraphs 10 and 14 of Security Council resolution 1649 (2005)

I. Introduction

1. By paragraph 10 of its resolution 1649 (2005) of 21 December 2005, the Security Council requested me to submit, in close coordination with all relevant stakeholders and in particular the Government of National Unity and Transition of the Democratic Republic of the Congo, a comprehensive and integrated strategy for the disarmament, repatriation and resettlement of foreign combatants, incorporating military, political, economic and justice-related aspects, including the contribution of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) within its current mandate, in accordance with the applicable norms of international law and with respect for the rights and freedom of the human person.

2. In paragraph 14 of the same resolution, the Council requested me to submit observations and, if necessary, recommendations concerning the letter addressed to the President of the Council on 21 October 2005 by the Ministers representing Burundi, the Democratic Republic of the Congo, Rwanda and Uganda on the Tripartite Plus Joint Commission (S/2005/667). In that letter, the Ministers recommended that the Council authorize MONUC to use all necessary means, within its capabilities and in the areas where its armed units are deployed, to disarm any armed group, foreign or Congolese, that operates in the eastern Democratic Republic of the Congo. The Ministers also recommended that the Council call on the donor community to redouble its efforts in the provision of assistance needed for the integration, training and equipping of the armed forces and of the national police of the Democratic Republic of the Congo, and urge the Government of National Unity and Transition to work with its friends to facilitate and expedite cooperation to this end.

3. The present report is submitted pursuant to those requests. By a note verbale dated 9 February, MONUC drew the attention of the Governments of the Democratic Republic of the Congo, Uganda, Rwanda and Burundi, the African Union and the International Committee in Support of the Transition to the provisions of resolution 1649 (2005) cited above, and sought their views on the formulation of a comprehensive and integrated strategy for the disarmament, repatriation and resettlement of foreign armed groups on the territory of the Democratic Republic of the Congo. This was followed by special consultations

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conducted in Kinshasa, Kigali, Kampala, and Bujumbura, with the respective Governments. At the same time, consultations were held in New York with some Member States and other international stakeholders.

II. Assessment of the foreign armed groups

4. In April 2002, I provided the Security Council with an assessment, contained in document S/2002/341, of the number, location, leadership, structure and armaments of the foreign armed groups in the Democratic Republic of the Congo. At that time, MONUC estimated the likely maximum number of foreign combatants on the territory of the Democratic Republic of the Congo at approximately 17,500. The statistics in annex I to the present report show that more than 13,000 combatants and their dependants have been repatriated to their countries of origin — Uganda, Rwanda and Burundi — since the United Nations-led repatriation operations began. Of the total repatriated, more than 8,000 were combatants, of whom more than 4,300 were Rwandan citizens. At least 150 foreign combatants have been killed in operations conducted by the Armed Forces of the Democratic Republic of the Congo (FARDC).

5. The current total number of foreign combatants is estimated at between 8,000 and 9,000, about 5,000 foreign combatants being in North Kivu and 3,000 to 3,500 in South Kivu. Of these, most belong to the Forces democratiques de libération du Rwanda (FDLR), with perhaps as few as 600 Ugandan Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU) and a small handful, in the low hundreds at most, being the remnants of the Burundian Forces nationales de libération (FNL).

6. Success in inducing Rwandan combatants to enter the United Nations-led process of disarmament, demobilization, repatriation, resettlement and reintegration has been directly linked to the level of confidence and security in North and South Kivu. Actions taken by the Transitional Government to extend its authority, particularly in South Kivu late in 2003, led directly to a rise in repatriation rates. The FDLR declaration in Rome on 31 March 2005 that it would denounce the Rwandan genocide, renounce the use of force and enter the disarmament, demobilization, repatriation, resettlement and reintegration process also stimulated some moves towards repatriation, albeit belatedly and below expectations. However, any rise in tension over the past few years, including threats of invasion, armed attacks or mutinies, has had an immediate negative impact on repatriation rates. Aggressive military action in 2003 by forces of the then Rassemblement congolais pour la démocratie-Goma (RCD-G) scattered groups of FDLR who were preparing to enter the disarmament, demobilization, repatriation, resettlement and reintegration process, while the violent attack on Bukavu by the forces of Laurent Nkunda in June 2004 halted repatriation from South Kivu for more than a year.

7. In view of the absence of political or ceasefire agreements with the foreign armed groups, except for the Burundian combatants, who left following the successful peace process in their country, nearly all the combatants and their dependants who have left the Democratic Republic of the Congo have been repatriated by MONUC.

III. Strategy for the disarmament, repatriation and resettlement of foreign combatants

8. The MONUC strategy towards the foreign armed groups has evolved over time, not only in response to adjustments in the mandates of the Security Council but also in the light of the growing understanding of the situation on the ground that MONUC has gained through its own extended local contacts. Several important political, military, socio-economic and justice-related measures based on incentives and disincentives have been put in place by the international community to resolve the foreign armed group problem. The current strategy of MONUC is based on ensuring that the regional actors remain engaged in the process, while encouraging the Government of the Democratic Republic of the Congo to take control of its territory and ensure security for all its citizens. MONUC and other stakeholders are assisting the Transitional Government to extend State authority and strengthen FARDC and the national police to provide security. With regard to its military strategy, MONUC continues to conduct joint operations with FARDC against the foreign armed groups in the context of its protection of civilians mandate and to support ongoing efforts to strengthen FARDC to enable them to carry out their responsibilities in this regard. Consequently, the efforts of MONUC are aimed at facilitating this process and building the necessary national and regional capacity for a long-term solution.

9. In the run-up to the forthcoming national elections, the main priority of MONUC is to assist the Transitional Government in ensuring the credibility of the process and promoting a secure environment for the elections. Fewer MONUC military assets will therefore be dedicated to pursuing foreign and national armed groups that have been assessed to have neither the capacity to disrupt the electoral process nor the intention of doing so. During this period, joint operations will be aimed at containing foreign armed groups in isolated locations away from civilian population centres, thereby minimizing civilian displacement.

10. MONUC believes that the establishment of an elected and more coherent national government will help to expedite the solution of the foreign armed group problem. Such a legitimate government would also be expected to be more cohesive and to build its army and enhance its bilateral relations with its neighbours. A political solution based on national and regional reconciliation is required to address the foreign armed group problem. Consequently, the responsibility for the resolution of the problem, both now and after the installation of an elected Congolese government, rests with the Governments of the subregion. The international community and MONUC have a role in actively assisting them in this regard. Nevertheless, in the interim, the continued presence of these groups in the eastern Democratic Republic of the Congo is likely to constrain recovery and development activities in some areas.

11. The problem of foreign armed groups should be alleviated as the future incoming elected Government of the Democratic Republic of the Congo extends its political and military control throughout its territory and cooperates with its neighbours in a credible effort to remove this irritant to relations between them. In this effort, the Governments of the subregion should also take into account the existing range of legal measures, as well as the economic activities in which the foreign armed groups are increasingly engaged.

12. Recent measures taken to address the issue of foreign combatants by the Transitional Government, Governments of the region, MONUC and other stakeholders are detailed below.

Political aspects

13. My deputy Special Representative for the Democratic Republic of the Congo led a MONUC delegation to Uganda, Rwanda and Burundi from 16 to 20 March to consult senior officials in those countries on current and future disarmament, demobilization, repatriation, resettlement and reintegration strategy for foreign armed groups in the Democratic Republic of the Congo. All officials, including the President of Uganda, Yoweri Museveni, and the President of Rwanda, Paul Kagame, expressed full support for the MONUC strategy, which is to strengthen and support FARDC in addressing the foreign armed groups and to support the elected Government of the Democratic Republic of the Congo in extending its authority throughout its territory and deploying disciplined Congolese troops that are adequately trained, led and paid in order to defend its civilian population, its national borders and its natural resources, and in establishing good relations with its neighbours. MONUC explained that building the capacity of the armed forces was an essential prerequisite for longer-term security in the Democratic Republic of the Congo and the region.

FDLR

14. Following those talks, MONUC and the Demobilization and Reintegration Commission of the Government of Rwanda jointly developed a series of measures to improve the flow of information about the situation in Rwanda to the combatants and their families in the Democratic Republic of the Congo, so as to encourage them to return. Those measures, when implemented, will enhance the current public information activities of MONUC in this regard. The Government of Rwanda also agreed to release a list of names of hard-line FDLR leaders wanted for serious crimes inside Rwanda and to work with MONUC on expanding the list of known FDLR leaders. The European Union has recommended follow-up measures to the Governments of the Democratic Republic of the Congo and Rwanda to encourage greater repatriation (see annex II). MONUC has translated those recommendations into Kinyarwanda and Swahili and plans to distribute them as leaflets to FDLR, following final approval of the measures by the two Governments.

15. The Transitional Government of the Democratic Republic of the Congo has also been active in addressing the armed group issue from a political perspective, primarily by continuing to take forward the Rome process. Although no large-scale repatriation followed the declaration made by the President of FDLR, Ignace Murwanashyaka, in Rome on 31 March 2005, it had the apparent effect of encouraging some officers and combatants to defy their superiors, who still opposed the disarmament, demobilization, repatriation, resettlement and reintegration process, and seek to enter the process. Starting late in November 2005, the Minister for Regional Cooperation of the Democratic Republic of the Congo, Mbusa Nyamwisi, acting on instructions from President Joseph Kabila, launched a major sensitization campaign in North Kivu that was intended to take advantage of splits in the FDLR hierarchy and encourage more combatants to disarm and return home. Since late December, the command and control structures of FDLR in both North

and South Kivu appear to have been seriously degraded and fighting has broken out among rival FDLR factions on at least one occasion.

16. In South Kivu, a dissident pro-repatriation FDLR commander, "General" Amani, acting in collaboration with MONUC, relevant local authorities and the Multi-country Demobilization and Reintegration Programme, organized three separate repatriations in November and December 2005. This led to the return of nearly 300 Rwandan combatants and their dependants, and the surrender and destruction of weapons. At the same time, according to reports received by MONUC, the FDLR President, Ignace Murwanashyaka, entered the north-eastern Democratic Republic of the Congo via Entebbe late in September 2005, apparently to forestall what he feared would be an attempt by FDLR units in northern North Kivu to follow Amani's lead. However Murwanashyaka's options became limited following the subsequent appearance of his name on the list issued by the Security Council Committee established pursuant to resolution 1533 (2004), as well as the expiry of the 30 September 2005 deadline set by the Tripartite Plus Commission for the voluntary entry of FDLR into disarmament, demobilization, repatriation, resettlement and reintegration. In the early months of 2006, MONUC transmitted to the Government of Uganda and members of the Tripartite Commission information it had received indicating that Murwanashyaka intended to cross into Uganda and then proceed onwards to Germany. On 7 April, the German authorities announced that Murwanashyaka was in custody in Mannheim, having returned to Germany via Uganda and Belgium. MONUC is now working with the Government of Germany and the Democratic Republic of the Congo to address the case of Murwanashyaka. Meanwhile, he has been released from custody but requested not to leave the country and to be available to German judiciary authorities.

17. Recently, a senior FDLR commander called Major Musare, who controls several hundred Rwandan combatants, informed MONUC of his intention to enter disarmament, demobilization, repatriation, resettlement and reintegration in compliance with the Rome declaration, and has reportedly ordered his men to regroup in the area of Bunyatenge, North Kivu, for disarmament. He has set no firm timetable for doing so, however, and is expected to face armed resistance from the more hardline FDLR forces positioned between him and the Rwandan border.

18. The apprehension of Ignace Murwanashyaka by the German authorities, and the arrest by Ugandan authorities of some leaders of the Mouvement révolutionnaire congolais on its territory, notably Bwambale Kakolele who had close affiliations with FDLR, seems to have further splintered the FDLR command structure in the Democratic Republic of the Congo. It has also deepened the alienation of the rank-and-file combatants from their leaders, emboldening some of them to break away and enter the disarmament, demobilization, repatriation, resettlement and reintegration process. Military operations of FARDC and MONUC in North Kivu under way represent a fresh opportunity to stimulate large-scale defections from FDLR. MONUC is ready to react positively to any influx of combatants and their dependants joining the disarmament, demobilization, repatriation, resettlement and reintegration process and has therefore reactivated the three temporary assembly areas in North Kivu.

FNL

19. With regard to the Burundian foreign armed groups, the almost total withdrawal of Burundian combatants from the Democratic Republic of the Congo, amounting to nearly 4,000 elements, which accompanied the peace process in Burundi, has significantly eased the problem of armed groups from that country in the Democratic Republic of the Congo. The current regional efforts to facilitate talks aimed at concluding a comprehensive ceasefire agreement between the Government of Burundi and FNL could provide a lasting solution.

20. Concerning the handful of FNL elements still remaining in the Democratic Republic of the Congo, the Congolese armed forces have identified a small group, numbering in the low hundreds, of alleged FNL combatants encamped on the Ubwari Peninsula in South Kivu. Fifty-one alleged members of the group were arrested in recent weeks by FARDC and repatriated to Burundi. MONUC and ONUB human rights monitors observed this repatriation from their respective sides of the border to help ensure that it was conducted in conditions of safety and security. It is expected that the rest of the group will be repatriated soon.

ADF/NALU

21. The Government of Uganda has repeatedly extended the amnesty it offers to Ugandan elements of ADF/NALU. In the meantime, MONUC facilitated the establishment at Beni, North Kivu, of the Ugandan Amnesty Commission's office, which is funded by the Government of Ireland. This office allows contact to be made with the Ugandan combatants in an attempt to persuade them to return home and participate in the reabsorption programmes.

Bilateral and multilateral confidence-building measures

22. In September 2004, the Governments of the Democratic Republic of the Congo and Rwanda signed the terms of reference for a Joint Verification Mechanism, an agreement designed to address cross-border issues, specifically to deal with threats of FDLR. In October 2004, the Joint Verification Mechanism had its first meeting and the parties adopted operational procedures for the joint verification teams in Goma and Bukavu. In addition, the Government of the United States has facilitated periodic tripartite talks with the participation of the three key subregional players — Democratic Republic of the Congo, Rwanda and Uganda — focusing particularly on cross-border issues. It also supported the establishment of an intelligence fusion cell at Kisangani, which started operating in March 2006 as a confidence-building measure among the three countries. Since September 2005, Burundi has also been represented at the meetings. These mechanisms provide a forum for the Governments of the subregion to jointly discuss measures to address the activities of the foreign armed groups remaining in the Democratic Republic of the Congo.

23. At the meeting of the Tripartite Plus Joint Commission held in Bujumbura on 20 and 21 April 2006, participants agreed to pursue their commitment to disarm and prosecute political and military leaders of armed groups, to reinforce their cooperation, and to deny support to leaders of armed groups destabilizing neighbouring countries. They also agreed to ask the African Union Commission and the United Nations to impose sanctions on named leaders of the rebel groups.

24. From 12 to 30 November 2005, the African Union conducted a large reconnaissance mission covering the Democratic Republic of the Congo, Rwanda, Uganda and Burundi, pursuant to the decision of the African Union Heads of State to deploy a force to disarm and repatriate the foreign armed groups on the territory of the Democratic Republic of the Congo by force. A number of modalities for the possible establishment of the force are still to be worked out and therefore no timetable for the deployment of such a force has been set. In the meantime, MONUC understands that the African Union reconnaissance mission intends to recommend that the main deployment of the future force should take place after the national elections in the Democratic Republic of the Congo and pursuant to an invitation from the elected Government.

Military aspects

25. In accordance with its mandate under resolution 1565 (2004), MONUC has been assisting the Government of the Democratic Republic of the Congo, in particular FARDC, as it continues to intensify its efforts to extend civilian and military authority throughout the Kivus, with a view to protecting the civilian population, defending the national borders, and curtailing the illegal exploitation of natural resources. One of the key objectives of this important exercise is to exert military pressure in such a way as to facilitate the disarmament and repatriation of the foreign armed groups. On 16 December 2005, President Kabila announced in Bukavu his intention to deploy a major presence in the city, with military, logistics and administrative components. While some measures have been taken to reinforce their presence in Bukavu, the armed forces have not as yet been able to launch independent operations against FDLR as President Kabila intended.

26. The Transitional Government's efforts to create an integrated and effective unified Congolese armed force have received significant support from a wide range of international multilateral and bilateral donors. These support activities are expected to continue and intensify as the Government extends its authority throughout the national territory and deploys its forces accordingly. The army integration process is being conducted in parallel with the disarmament, demobilization and reintegration into civilian society of former Congolese combatants, which has been actively supported by international donors. The process of security sector reform and disarmament, demobilization and reintegration, however, has been slower than expected, owing to a range of problems related to administration, sustainment, command and control, training and discipline.

27. Following the announcement on 16 July 2005 by the Transitional Government of its commitment to take forcible action to disarm FDLR, FARDC and MONUC launched a series of military operations designed to prevent and deter Rwandan combatant attacks against the local civilian population; to apply active pressure on the foreign armed groups; to force them to quit locations of high civilian concentration, thus also severing their links with the local population and local economic centres; to disrupt their internal communications; to encourage their leadership to negotiate; and also to encourage repatriations. MONUC has assisted the armed forces with logistical support and air cover in direct operations against Rwandan and Ugandan armed groups concentrated in North and South Kivu.

28. Assisted by MONUC, the FARDC operations have allowed the Government to dominate large areas of the Kivus by driving out FDLR or other related forces that had established themselves there. Several of the operations resulted however in thousands of civilians fleeing from affected areas and being victims of FARDC abuses. Consequently, operations were temporarily suspended during the voter registration and referendum periods. Military operations against FDLR have also resulted in reprisals against the civilian population. In two particularly serious instances in the village of Kabingu (South Kivu) on 9 July 2005, more than 50 civilians, mostly women and children, were killed; and on 9 October, in the locality of Buba also in South Kivu, 25 civilians were killed by machetes and sticks, allegedly by FDLR/Rasta elements. Reports indicate that the reprisals were inflicted to punish the local population for their support of FARDC/MONUC activities against the Rwandan combatants.

29. The most militarily significant operation began on 24 December 2005, when FARDC launched a major offensive against ADF/NALU in North Kivu in the areas of Eringeti and Rwenzori. The operation involved 3,500 Congolese troops assisted by 600 members of the MONUC North Kivu brigade, who provided logistical and air cover support. Although ADF/NALU attempted to hold its ground, FARDC overran its bases. The action resulted in heavy ADF/NALU casualties, with an estimated 86 killed, while 6 FARDC and one MONUC soldier lost their lives; 16 FARDC and 4 MONUC troops were also wounded.

30. The Office for the Coordination of Humanitarian Affairs and UNICEF reported that, as a result of the fighting, as many as 119,000 civilians fled the area. The Office for the Coordination of Humanitarian Affairs, MONUC, United Nations agencies and international partners actively provided them with humanitarian assistance. At the same time, there were many reports of FARDC human rights abuses. Nevertheless, the overall result of the operation was regarded as positive, as the ADF/NALU elements were driven out of their bases and into the mountains, suffering significant casualties, including among some of their leaders.

31. Since that time, however, reports have been received that some ADF elements have begun to return to their original bases and that some FARDC elements originating from the same communities as the armed groups may have prevented Congolese ADF elements from entering national disarmament, demobilization and reintegration because of local political and economic interests. As only 30 to 40 per cent of the estimated total number of 700 to 1,400 ADF/NALU combatants are considered to be Ugandan, the return of Congolese ADF/NALU to their home bases where they have ties with some local FARDC elements is a cause for concern for the security of elections in the area.

32. FARDC and MONUC have warned the remnants of the Ugandan ADF/NALU now hiding in the Rwenzori Mountains that they may face new attacks, which they can avoid only by entering the disarmament, demobilization, repatriation, resettlement and reintegration process. My Special Representative for the Democratic Republic of the Congo subsequently informed President Museveni, by a letter dated 14 January 2006, that the ADF/NALU issue is close to being resolved, and requested the Government of Uganda to prevent the return to the Democratic Republic of the Congo of any Ugandan combatants driven across the border by FARDC/MONUC actions. Nevertheless, some reports have since indicated that an

unknown number of Ugandan ADF/NALU have re-entered the Democratic Republic of the Congo.

33. In September 2005, elements of the Ugandan Lord's Resistance Army (LRA) crossed into the north-eastern Democratic Republic of the Congo. This was the first time that armed group had been detected on Congolese soil. Following the rapid deployment to the scene of substantial FARDC and MONUC forces, the LRA elements withdrew. However, reports persist that those elements — numbering slightly over 100 members — continue to cross back and forth between the Sudan and the Democratic Republic of the Congo. These movements have created additional concerns for MONUC and FARDC. However, at this stage, it does not appear that LRA represents a threat to the people of the Democratic Republic of the Congo or to the electoral process. On 18 January, MONUC deployed its Guatemalan Special Forces Unit to the Garamba National Park, following the receipt of information about the alleged presence of LRA, including one of the militia leaders, Vincent Otti, for whom an arrest warrant had been issued by the International Criminal Court. On 23 January, while approaching a militia camp, the MONUC Special Forces Unit came under heavy fire from suspected LRA elements. Eight Special Forces troops were killed and five were injured in the subsequent exchange of fire. FARDC has deployed a battalion in the area of the Garamba Park to ward off LRA incursions into the territory of the Democratic Republic of the Congo and is being encouraged by MONUC to better patrol the border and not allow LRA to establish a safe haven in the Park. MONUC is prepared to provide time-limited technical support during operations within its capacity. However these new FARDC elements are allegedly harassing the civilian population of the area.

34. On the basis of the Security Council mandate and the experience gained so far, MONUC will continue to encourage and assist the Congolese armed forces wherever possible in carrying out targeted operations against the foreign armed groups and their leadership, in order to weaken their authority over the combatants, encourage further desertions, free population centres from the control of armed groups, deny those groups access to and control over natural resources, and disrupt their business activities.

35. The experience of MONUC in collaborating closely with FARDC has however revealed significant weaknesses in the training; equipping and other logistical support, in particular transportation; organization; leadership; fighting ability and, above all, the conduct of Congolese army units' vis-à-vis the population. My Special Representative has raised this last point with President Kabila, and MONUC has compiled detailed information on serious misconduct on the part of the Congolese armed forces. The valuable assistance received by FARDC so far from the international community needs to be continually increased and refocused to ensure that the Congolese troops are effective militarily and seen as a protector of the population. Progress on the military side of disarmament, demobilization, repatriation, resettlement and reintegration, and the entire exit strategy for MONUC, will be very difficult unless this issue is addressed in a fundamental and systematic manner.

Socio-economic aspects and national reception programmes

36. Some foreign armed groups in the Democratic Republic of the Congo are engaged in considerable economic activities, including trade with and in neighbouring countries, as well as with the local Congolese population. Splits and movements ostensibly caused by political differences in fact have socio-economic dimensions. Although some of the cross-border trade involves the exchange of natural resources for arms and ammunition, there are indications of FDLR and ADF/NALU involvement in otherwise mainstream transactions and economic activities. Some Rwandan and Ugandan combatants have farms and small businesses in the Democratic Republic of the Congo and often tell MONUC that they would be ready to return home after they have harvested their crops. In northern North Kivu, some of the FDLR and ADF/NALU followers are in fact Congolese, as are many of the family members of the foreign combatants. Under the nationality law of the Democratic Republic of the Congo, the child of a Congolese mother is a Congolese national irrespective of the nationality of the father. Hence, many of the dependants of the foreign combatants are likely to be Congolese, and to have natural links in the local community.

37. MONUC has sought to put additional pressure on the foreign armed groups by encouraging local business communities to reconsider any links they may have with foreign combatant groups. In accordance with its mandate to enforce the arms embargo, MONUC also has the right to stop and search traffic believed to be carrying illegal weapons. MONUC has therefore planned an intensive military campaign to disrupt cross-border illegal traffic in both directions in order to undermine any support or collaboration the foreign armed groups might enjoy among the business community, particularly in North Kivu.

38. The Multi-country Demobilization and Reintegration Programme (with resources from 11 contributing partners and the World Bank) is fully engaged in Burundi, Rwanda and Uganda in the reception, demobilization and reintegration of combatants arriving from foreign countries, including the Democratic Republic of the Congo, through their respective national programmes and institutions, and in close collaboration with MONUC. Support provided through the Programme amounts to about $84 million for Burundi, $61 million for Rwanda, $4 million for Uganda and $238 million for the Democratic Republic of the Congo. The national programmes provide assistance to ex-combatants in varying forms including verification, registration, provision of identity cards, orientation, transportation, provision of cash, formal and informal education, skills training, medical services and social reintegration support.

39. National institutions responsible for demobilization and reintegration in those countries provide follow-up and monitoring of all ex-combatants, including those who return from other countries. Each national institution offers a mechanism for partners to actively engage in monitoring activities triggered by general or specific requests to the respective national coordination body. All programmes also have a modern electronic database system that allows for detailed tracing at any time.

Justice-related aspects

40. In September 2002, the Government of the Democratic Republic of the Congo, acting pursuant to the Pretoria Agreement of July 2002, declared all FDLR elements persona non grata and all FDLR activities illegal on the soil of the Democratic Republic of the Congo. That declaration forms the legal basis for the Government's current effort to arrest the FDLR leaders Ignace Murwanashyaka and General Sylvestre Mudacumura. An unknown number of FDLR officers and combatants in the eastern Democratic Republic of the Congo may also be wanted by the International Criminal Tribunal for Rwanda in connection with crimes against humanity, and they and others are wanted for serious crimes in Rwanda by the Rwandan authorities.

41. As noted above, the Security Council Committee established pursuant to resolution 1533 (2004) has issued a list of individuals and entities subject to the measures imposed by paragraphs 13 and 15 of resolution 1596 (2005). The list includes the names of Ignace Murwanashyaka and Sylvestre Mudacumura. The international community in general, and the Transitional Government of the Democratic Republic of the Congo in particular, are therefore committed to taking action against them, apprehending them and bringing them to justice. The arrest of Ignace Murwanashyaka in Germany, as noted above, has been brought to the attention of the Chairman of the Committee for necessary action. In view of the existence of the International Criminal Tribunal for Rwanda and the fact that impunity should not be offered to persons suspected of serious crimes, there is very little in the way of concessions that can be proposed to the combatant leaders. All others would have nothing to fear in returning to their country of origin.

42. MONUC is now in the process of researching and preparing a list of Congolese traders believed to be collaborating with FDLR in their business activities in North and South Kivu, with a view to working with the Government on identifying any crimes they may be committing and considering legal action against them.

43. MONUC is also concerned about the need to bring to justice FDLR elements that have committed human rights abuses against Congolese civilians, including rapes, executions, kidnappings, destruction of property, torture, extortion and taking Congolese women as "war wives". The Mission is working on a strategy whereby these crimes may be brought to light, investigated and justice served.

IV. Observations

44. Recent developments with regard to FNL, ADF/NALU, FDLR and some other groups of foreign origin indicate that there has been significant progress in the disarmament and repatriation of these groups especially, since MONUC adopted the concept of operations initially proposed in paragraph 75 of the Secretary-General's third special report (S/2004/650), and endorsed by the Security Council in resolution 1565 (2004).

45. MONUC strongly believes that the way to resolve what remains of the foreign armed group problem is to support and sustain a long-term coordinated and comprehensive effort by the Government of the Democratic Republic of the Congo to extend State authority to the entire territory of the country as early as possible

and enforce law and order, as well as to establish good relations with its neighbours. MONUC expects this process to accelerate following the election, to be held later in 2006, of a new Government of the Democratic Republic of the Congo, which will require a higher level of direct military and other support from donors.

46. I also strongly encourage closer cooperation between the Government of the Democratic Republic of the Congo, the Governments of Rwanda, Burundi and Uganda and MONUC. Such cooperation would contribute to a lasting solution to the foreign armed groups remaining in the Democratic Republic of the Congo, in particular to the resolution of the FDLR issue. First and foremost, there is a need to isolate or separate FDLR hard-line political and military leaders from rank-and-file elements. Other aspects of the proposed strategy may include:

(a) Strengthening the exchange of information/real-time data on FDLR (and other groups) targeting their supply/resource lines through local and international mechanisms;

(b) Encouraging bilateral cooperation between Rwanda and the Democratic Republic of the Congo, using the Tripartite Plus Commission and the Joint Verification Mechanism as a basis for dialogue between the two Governments;

(c) Intensification of sensitization efforts, particularly with regard to the incentive reintegration package that is expected to be available for FDLR returnees in Rwanda. The implementation of the measures set forth in annex II to the present report would greatly facilitate this process;

(d) Establishment and publication of a list of FDLR members accused of serious crimes by the Government of Rwanda and the International Criminal Tribunal for Rwanda;

(e) Broadening the Security Council sanctions list against individuals to include the leaders of foreign armed groups and, when possible, their financial backers;

(f) Strengthening border control and immigration mechanisms between countries of the region, and identifying other economic means to cut off the supply of goods and funds available to the foreign armed groups in the Democratic Republic of the Congo.

47. As members of the Council are aware, MONUC and several international donors have been actively supporting the Transitional Government in building a unified national army and in the conduct of operations against foreign combatants in the eastern part of the country. There is a pressing need to increase coordinated international support for the creation of a Congolese army capable of discharging its duties, through inter alia adequate *brassage*, adequate training, provision of equipment, and regular and improved payment of staff.

48. The robust but in the final analysis voluntary approach to the conduct of disarmament, demobilization, repatriation, resettlement and reintegration pursued by MONUC has been dictated in part by its desire to minimize further bloodshed and suffering in the Democratic Republic of the Congo, where it is estimated that 4 million people have already died as a consequence of the armed conflict.

49. While continued military pressure on the intransigent foreign armed groups is undoubtedly necessary and will have to be actively pursued, I am concerned by the

potentially negative humanitarian and human rights consequences of such action for the civilian populations. MONUC, while continuing to assist the Congolese armed forces, is taking several steps to ensure that such consequences are mitigated, including the following:

(a) Strengthening civil and military coordination with FARDC at all stages of military operations, in order to ensure that humanitarian implications are sufficiently factored into military planning. This includes information and analysis on the local population concerned, safe access for humanitarian actors, preventive protection strategies to minimize violence and suffering during and after the operations, and addressing the presence of children associated with armed groups. In addition, mechanisms for sharing information between military and civilian actors are being strengthened;

(b) Contingency planning for a humanitarian response to possible displacements before military operations are launched, in order to help ensure that humanitarian actors are ready to react with the provision of both food and non-food items;

(c) MONUC will continue to actively pursue with the Government of the Democratic Republic of the Congo its efforts to investigate and prosecute human rights abuses committed during these operations, with particular emphasis on holding responsible commanders accountable. At the same time, the Mission is strengthening its human rights/military coordination to develop preventive and monitoring measures with a view to decreasing human rights abuses committed by FARDC elements, particularly in the aftermath of joint MONUC-FARDC military operations.

50. With the adoption of the measures set out above, the current balance between an essentially voluntary approach and the Government's use, with the support of MONUC, of legitimate force appears to be an effective and practical means of addressing the problem of foreign armed groups. At the same time, as national elections approach, the security and logistical assets of MONUC will have to give priority to electoral preparations over the conduct of robust military operations against foreign armed groups. At this stage, any sustained operations could raise the level of tension and insecurity in the Kivus and thus disrupt the climate in which the elections should be held.

51. Although there has been significant progress with regard to the repatriation of foreign armed groups in the Democratic Republic of the Congo, this issue continues to be a source of misunderstanding and even tension among the neighbouring countries. At the same time, it has been generally accepted, particularly following recent consultations, that the implementation of a comprehensive and integrated strategy for addressing the issue of foreign armed groups in the Democratic Republic of the Congo primarily depends on the Government of the Democratic Republic of the Congo and the Governments of Rwanda, Uganda and Burundi taking full responsibility for the resolution of the problem, with the active assistance of the international community.

52. I am pleased that the Government of Rwanda published on 5 May the list of FDLR leaders accused of serious crimes with a view to signalling to the majority of rank-and-file combatants that they should not be fearful of the national judicial process. This development could also pave the way for discussions of the issue. I

also urge the Government of the Democratic Republic of the Congo to take additional steps, such as strengthening its border control and immigration mechanisms, and other economic and legislative measures to cut off the supply of goods and funds to the foreign armed groups.

53. I am also pleased with the Government of Uganda's recent decision to cooperate with the Uganda Core Group and the United Nations towards establishing a joint monitoring committee that would work towards solving the conflict in northern Uganda. I have noted that the Government of Uganda is actively considering a regional security mechanism which would also involve the Government of the Democratic Republic of the Congo and the Government of the Sudan in matters pertaining to LRA.

54. Altogether, the role of donors in supporting and facilitating the development of subregional economic measures will be essential. I would encourage all countries in the subregion to use the existing mechanisms like the Tripartite Plus Commission and the Joint Verification Mechanism as well the Communauté economique des pays des Grands Lacs to discuss with donors and other stakeholders the development of practical economic measures to address cross-border issues. I would urge Member States to strongly encourage their mining and trading companies to abide by principles of transparent business practices in this politically volatile and sensitive region, and to take effective national and international action to prevent violations of the arms embargo and the illegal exploitation of the natural resources of the Democratic Republic of the Congo.

55. Among the outstanding concerns to be considered with regard to the problem of foreign armed groups in the Democratic Republic of the Congo is whether the principal objective of disarmament, demobilization, repatriation, resettlement and reintegration is still the repatriation of combatants or whether there may be other options that can be raised with regional stakeholders. An important aspect of this process would be to clarify the status of the *non-genocidaires* who comprise at least 80 per cent of the FDLR presence in the Democratic Republic of the Congo. At the same time, I cannot overemphasize the need for sustained, inclusive, positive and result-oriented dialogue at the national and subregional level, to achieve a lasting resolution of the problem of foreign armed groups in the Democratic Republic of the Congo.

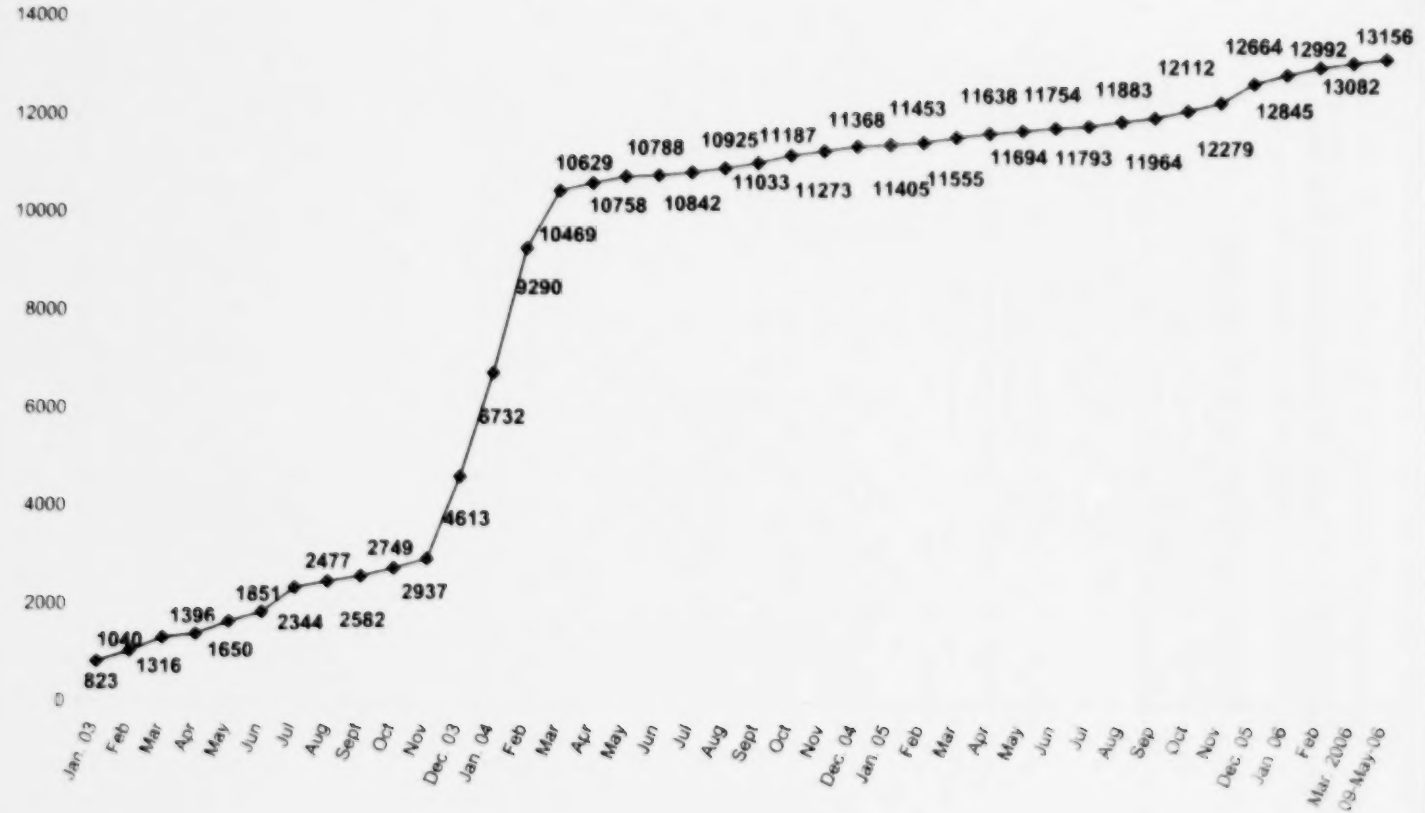
Annex I

Foreign combatants and their dependants repatriated from the territory of the Democratic Republic of the Congo

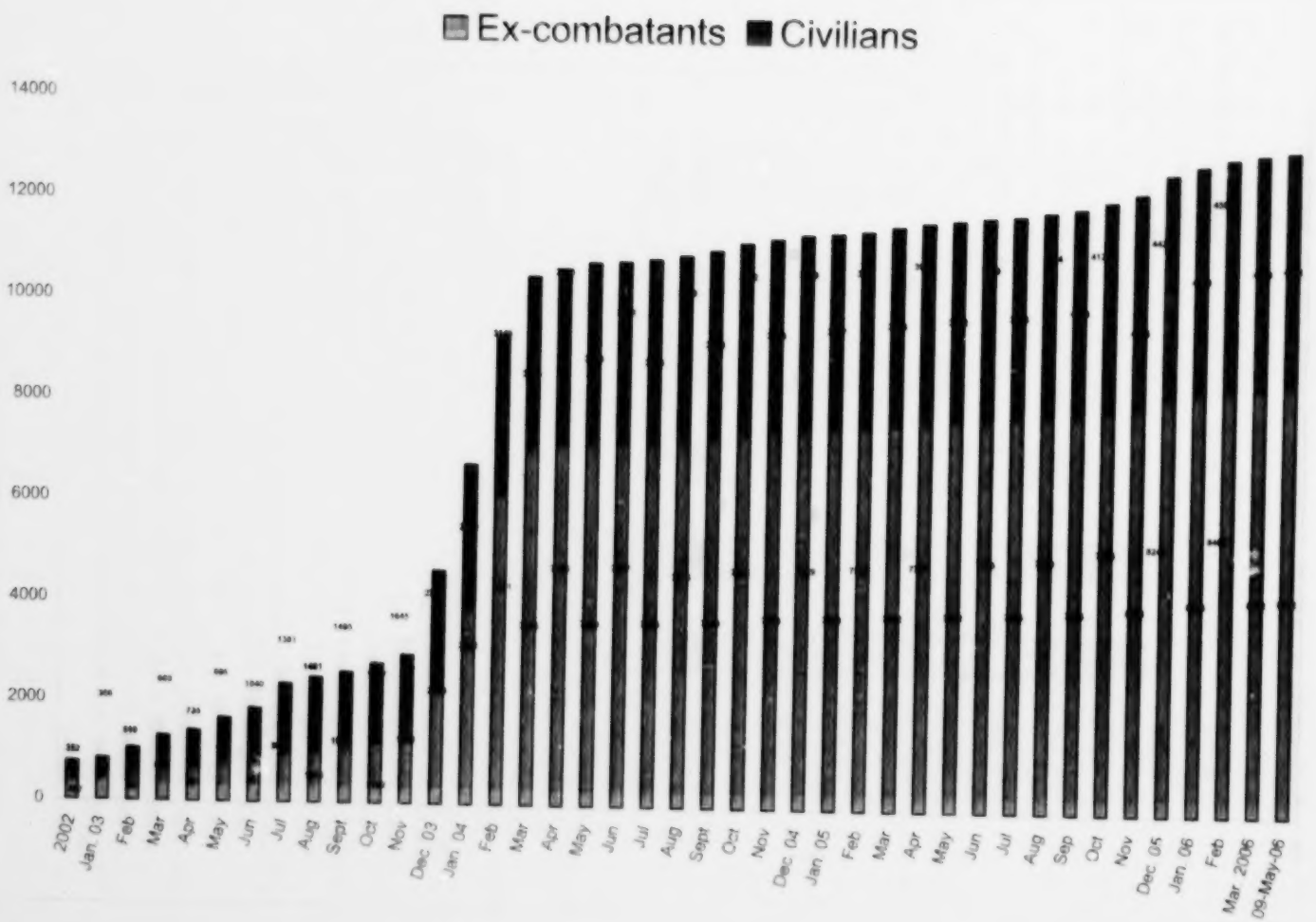
A. Total number of persons repatriated as at 9 May 2006

Repatriated	*Ex-combatants*	*Civilians*	***Total***
Rwandan	4 446	4 230	**8 676**
Ugandan	410	290	**700**
Burundian	3 656	124	**3 780**
Total	**8 512**	**4 644**	**13 156**

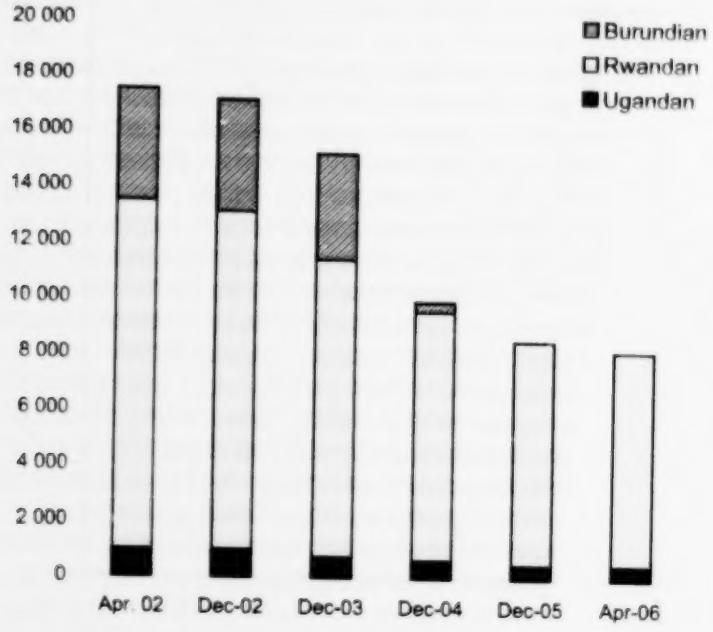
B. Number of persons repatriated, January 2003 to 9 May 2006



C. Status of persons repatriated, 2002 to 9 May 2006



D. Nationality of persons repatriated, April 2002 to April 2006



Annex II

Measures and policies in place for Rwandan returnees

Contributor	*Action*
Government of Rwanda	• In accordance with the Rwandan constitution, every Rwandan has the inalienable right to his or her country (article 24). The Government of Rwanda continues to encourage the unconditional return of all Rwandans who have taken refuge outside their national territory. • Ex-combatant returnees are reintegrated into Rwandan society, including in the Rwanda Defence Forces, for those who possess the requisite qualifications. Since 1995, over 15,000 officers and rank and file of the ex-FAR and other armed groups have been reintegrated, including into the highest military posts. Some are currently serving as ministers, generals and senior officials. • Since 1997, 55,584 combatants have been through the demobilization process. All ex-combatant returnees undergo a two-month orientation which includes studying the Constitution and Rwandan history and training in human rights, entrepreneurship, project management, the new administrative framework of Rwanda and how to access microcredit. While in the orientation centre, trainees receive food, lodging, medical treatment, and health counselling including on HIV/AIDS. Upon completion of the orientation, former combatants receive a reinsertion package including food and utensils, and RWF 50,000 in cash. Six months later they are eligible for a reintegration grant of RWF 100,000. • Former combatants are eligible for an education grant of up to RWF 500,000 towards either university education or other training. Returnees also benefit from all other schemes open to the rest of Rwandan society. • Child soldiers under 18 years of age are taken to a separate orientation centre where they receive medical care as well as training in reading, writing and basic mathematics until they can be reunited with their families (an average stay of 2-3 months). Government of Rwanda social workers, working together with ICRC, locate the relatives. Upon their departure, those intending to develop vocational skills receive a tool kit, while the others receive assistance with school fees. Orphans without relatives are placed in foster homes like other Rwandan orphans and foster parents receive financial assistance from the Government. • Dependants go to their communities of origin, and are assisted in the reintegration process. They are provided with food and seeds until their first harvest. The Government also assists those in acute need of shelter. • Returnees, including ex-combatants, retain the right to any property they may have left in Rwanda. The Government has not seized land or homes abandoned by ex-combatants. If however, on return, they are not able to get their properties back, local officials have been instructed to assist with restitution due to the legal owner.

Contributor	*Action*
	• Rwanda introduced a traditional justice mechanism following the genocide called the gacaca courts. Except for the planners and masterminds of the genocide, who go through regular courts and may face the maximum sentences provided for under the law if convicted, all other suspects go through the gacaca process. Those who were under 14 when they committed crimes have no criminal responsibility and are not tried, while those who were between 14 and 18 receive reduced sentences. Those who confess and plead guilty also receive reduced sentences, part of which may be served through community service (*travaux d'intérêt général*).
	• Returnees, including ex-combatants, are reintegrated in a transparent manner; the Government works closely with international partners in this regard.
Government of the Democratic Republic of the Congo	• The Rome declaration of 31 March 2005 included commitments by FDLR to voluntarily disarm and return to Rwanda peacefully. The Government of the Democratic Republic of the Congo was officially involved in this process and needs to continue to reflect its commitment to the principles of the declaration.
	• The failure of the FDLR leadership to live up to the expectations of the Rome declaration resulted in the Transitional Government announcing its commitment on 16 July 2005 to take forcible action to disarm FDLR. Since July, FARDC with MONUC support has conducted operations against FDLR that exert military pressure and encourage their return to their country of origin. The Government needs to continue these efforts, particularly with more professionally disciplined, trained and integrated FARDC.
	• The Government will clarify that the repatriation of ex-combatants to Rwanda will be managed under the regional disarmament, demobilization, repatriation, resettlement and reintegration programme, supported by MONUC and the partners of the Multi-country Demobilization and Reintegration Programme. Ex-combatants will be handed over to the Rwandan Demobilization and Reintegration Commission.
	• Greater efforts by the Government of the Democratic Republic of the Congo are needed to publicize the package of incentives for FDLR through the local media, particularly the radio, as well as through relevant sensitization activities of the National Demobilization and Reintegration Programme and the Ministry of Regional Cooperation.
International community	• The international community, as represented in Kigali, will continue to follow closely the repatriation and reintegration of all returnees, including former members of FDLR and their families in Rwanda.
	• FDLR combatants who return to Rwanda will be eligible to benefit from the demobilization and reintegration programme managed by the World Bank under the framework of the Multi-country Programme.
	• Dependants of returning FDLR ex-combatants will receive the same assistance as other civilians returning to Rwanda, with support from the Government of Rwanda, UNHCR, the World Bank and the Multi-donor Trust Fund of the Multi-country Programme.

Contributor	*Action*
	• The donor community, including national and international non-governmental organizations, is financing various programmes within the framework of development cooperation, which also benefit the reintegration of returnees (e.g. programmes relating to infrastructure, housing, education, health, social measures).
United Nations/MONUC	• MONUC has established six temporary assembly areas for FDLR combatants, three in North Kivu and three in South Kivu, each with a capacity to accommodate approximately 400 people.
	• Ex-combatants who enter the process will be disarmed and registered by MONUC in those assembly areas, in which they normally stay for a maximum of 48 hours. All humanitarian aspects concerning FDLR and their families, such as food, medical support, security and transport to the Rwandan border are covered by MONUC. MONUC will share all registration data with the Tripartite Plus Joint Commission and the secretariat of the Multi-country Programme.
	• Subsequently, MONUC will hand them over to the Rwandan Demobilization and Reintegration Commission. Once they cross the Rwandan border, ex-combatants and their families are entered into the Rwandan Demobilization and Reintegration Programme managed by the Commission, which is supported by the World Bank and donors.
African Union	• Resettlement (asylum) in a third country outside the Democratic Republic of the Congo will be offered to those FDLR members who do not want to go back to Rwanda, provided that that they are not wanted by the Tribunal, by Rwandan courts, or any other national courts for the crime of genocide. The African Union will identify the countries ready to give asylum to these individuals and their families.